

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ROBERT I. SCHWARTZ,

Plaintiff,

-against-

ADOPTION ORDER
16-cv-2743 (ADS)(AYS)

RICHARD A. SCHWARTZ, and JOHN DOE NOS. "1-10" inclusive, the names of the last 10 defendants being fictitious, the true names of said defendants being unknown to Plaintiff, it being intended to designate fee owners, tenants or occupants of the mortgaged premises and/or persons or parties having or claimed an interest in or a lien upon the mortgaged premises, if the aforesaid individual defendants are living, and if any or all of said individual defendants be dead, their heirs at law, next of kin, distributes, executors, administrators, trustees, committees, devisees, legatees, and the assignees, lienors, creditors and successors in interest of them, and generally all persons having or claiming under, by, through, or against said defendants named as a class, of any right, title, or interest in or lien upon the premises described in the complaint,

Defendant(s).

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APPEARANCES:

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By: Ronald D. Weiss, Esq., Of Counsel

SPATT, District Judge.

On November 18, 2016, the Plaintiff Robert I. Schwartz (the “Plaintiff”) moved for summary judgment, default judgment, computation of damages and judgment of foreclosure and sale against the Defendants Richard A. Schwartz and John Does 1-10 (the “Defendants”) in this mortgage foreclosure action.

On April 14, 2017, the Court referred the Plaintiff’s motion to Magistrate Judge Anne Y. Shields.

On August 28, 2017, Judge Shields issued a Report and Recommendation (the “R&R”), recommending that the Plaintiff’s motion for summary judgment be granted, and that the Defendant’s affirmative defenses be dismissed with prejudice. Judge Shields further recommended that the Court grant the Plaintiff’s motion to amend the caption to substitute Jackie Schwartz for John Doe No. 1 and to strike the Defendants John Doe No. 2 through John Doe No. 10 from the caption and dismiss them from this action. Finally, Judge Shields recommended that the Court deny without prejudice the Plaintiff’s motion for default judgment against Jackie Schwartz, with leave to renew within 30 days of the District Court’s adoption order after obtaining a certificate of default from the Clerk of the Court.

It has been more than fourteen days since the filing of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning

and its result. See Coburn v. P.N. Fin., No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety.

The Plaintiff shall have 30 days from the date of entry of this Order to inform the Court whether he wishes to refile his motion for default judgment against the Defendant Jackie Schwartz, or whether he wishes to instead submit a proposed judgment of foreclosure and sale consistent with the R&R and this adoption order.

The Clerk of the Court is respectfully directed to amend the official caption of the case to reflect the following:

Robert I. Schwartz,

Plaintiff,

-against-

Richard A. Schwartz, and Jackie Schwartz,

Defendant(s).

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SO ORDERED.

Dated: Central Islip, New York

September 12, 2017

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge